

Grounds for Traversal

The applicant respectfully submits that the Restriction Requirement is improper for at least three (3) reasons, each of which is separately addressed below.

The Claims of Group II are to Drawn to Query Processing, not to a Database Schema or Data Structure.

First, claims 24-27 of group II are drawn to query processing (searching), as are the claims of group I, not simply to a database schema or data structure as the Examiner alleges. Therefore, the claims of group II belong with the claims of group I, which the Examiner alleges are drawn to query processing (searching).

There Would be No Serious Burden on the Examiner to Examine the Claims of Both Group II and Group III.

Second, the Examiner contends that (i) the claims of group II are classified in class 707, subclass 100, and (ii) the claims of group III are classified in class 707, subclass 102. Since subclass 102 falls under subclass 100 in class 707, the Examiner would have to search both 100 and 102 for the claims of group III. Thus, if the Examiner were to examine the claims of group III, it would not be a serious burden to also examine the claims of group II. Since this shows a lack of serious burden on the Examiner, the restriction is not proper. (See MPEP 803.)

Rule 1.141(b) is Applicable


Finally, even if the Examiner properly grouped the claims, he did not show that the claims of groups II and III are distinct. Rule 1.141(b) provides that where claims to a product (e.g., a data structure), a process for making, and a process of use are present, a three-way restriction is only proper if the process of making (group III) and the product (group II) are distinct. The Examiner has not alleged that the claims of these groups are distinct. Therefore, the process of using (group I) is to be joined with the product and process of making even if the Examiner has shown distinctness between the product and process of using. (See MPEP 806.05(i).)

Conclusions

In view of the foregoing, the applicant respectfully submits that all of the pending claims (i.e., claims 1-49) should be examined.

Respectfully submitted,

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